

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 5th Day of June 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIAH

WRIT PETITION NO.27961/1996

Between:

M/S.Upkar Associates,
No.34, R.V.Road,
Basavanagudi,
Bangalore - 560 004,
by its Managing Partner,
Mr.K.M.Khan.

...PETITIONER

(By Sri.G.V.Shantharaju, Adv.)

And:

1. Bangalore Mahanagara Palike
Corporation Offices,
N.R.Square, Bangalore,
by its Commissioner.
2. Assistant Revenue Officer,
Bangalore City Corporation,
Jayanagar Division,
Bangalore - 560 011.

...RESPONDENTS

(By Sri.B.V.Muralidhar and
Sri.H.J.SundarKumar, Advs.)

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This Writ Petition is filed under Article 226 of the Constitution of India with a prayer to quash the endorsement dated 6.3.96 by R2 vide Annexure 'B'.

This Writ Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

O_R_D_E_R

The petitioner claims to be the owner of the land in Old No.4 (New No.4/1A) of Guttepalya, Lalbagh Siddapura, Bangalore under a registered sale deed dated 13.03.1995. After the purchase, the petitioner made an application to the Corporation to transfer the katha to his name. On that application, the Corporation issued an endorsement stating that the said land has been declared as a slum by the Karnataka slum Clearance Board and therefore the request for transfer of katha is rejected. This endorsement is challenged by the petitioner in this Writ Petition.

2. The respondent-Corporation has filed a counter stating that the said land has been declared by the State Government as a slum under provisions of the Karnataka Slum Area (Improvement and Clearance) Act, 1973 and has also produced the notification issued by the State Government.

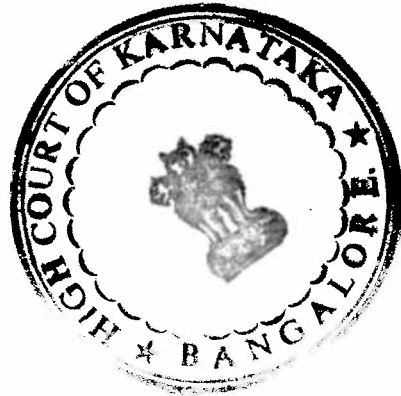
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From the notification, it is seen that a portion of the land in Sy.No.4/1A has been declared as slum. This shows that it is not the entire land in Sy.No.4/1A has been acquired. What has been acquired is only a portion of the land in the Sy.No. It is not possible to identify which portion of the land in Sy.No.4/1A has been declared^{or} slum as per the notification. When the identity of the land itself has not been established^{by} by the Slum Clearance Board or by the Corporation, it is just and necessary for the Corporation to afford an opportunity of hearing to the petitioner^{✓ while considering his application for} ~~before~~ transfer of katha. In the instant case, no[^] opportunity has been afforded to the petitioner and no enquiry has been held by the Corporation before rejecting the request of the petitioner for transfer of katha. Therefore, in my opinion the matter requires re-consideration. In the result, I pass the following order:

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Writ Petition is allowed. The endorsement dated 06.03.1996 as per Annexure 'B' issued by the Corporation ^{is} ~~shall~~ be quashed. The matter is remitted to the respondents to dispose of the matter afresh after due notice to the petitioner.

Sd/-
JUDGE



sps/-